

ESTTA Tracking number: **ESTTA587320**Filing date: **02/13/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Tequila Holdings, Inc.		
Entity	Corporation	Citizenship	California
Address	221 E Walnut Street Suite 230 Pasadena, CA 91101 UNITED STATES		

Attorney information	Lee Fredric Sharra 4313 Trouthaven Dr. Murrysville, PA 15668 UNITED STATES lee.sharra@gmail.com Phone:4129021102
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Registration Subject to Cancellation

Registration No	4448717	Registration date	12/10/2013
Registrant	Basha Holdings, LLC 217 W. 16th Street, Apt. B New York, NY 10011 GERMANY		

Goods/Services Subject to Cancellation

Class 033. First Use: 2012/09/00 First Use In Commerce: 2012/09/00 All goods and services in the class are cancelled, namely: alcoholic beverages, namely, distilled spirits


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)

Related Proceedings	91207397
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3709577	Application Date	03/25/2008
Registration Date	11/10/2009	Foreign Priority Date	NONE
Word Mark	PAQUI		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2009/07/05 First Use In Commerce: 2009/07/05 Distilled Spirits

U.S. Registration No.	3772479	Application Date	06/12/2008
Registration Date	04/06/2010	Foreign Priority Date	NONE
Word Mark	PAQUÍ# SILVERA 100% DE AGAVE AZUL HECHO EN MÃ#XICO		
Design Mark			
Description of Mark	The mark consists of a circular design containing a stylized image of a person;the words "Paqui Silvera" are in the center; the words "100% De Agave Azul" and "Hecho en Mexico" form arches around the top and bottom of the circle.		
Goods/Services	Class 033. First use: First Use: 2009/07/02 First Use In Commerce: 2009/07/02 Distilled Spirits		

Attachments	77431012#TMSN.jpeg(bytes) 77497600#TMSN.jpeg(bytes) Petition for Cancellation.pdf(1937282 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/Lee Fredric Sharra/
Name	Lee Fredric Sharra

Date	02/13/2014
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TEQUILA HOLDINGS INC.,)	Application Serial No. 85696550
)	Registration No. 4448717
PLAINTIFF,)	MARK: QUI PLATINUM
)	
vs.)	
)	CANCELLATION No.
BASHA HOLDINGS, LLC,)	_____
)	
APPLICANT.)	

Tequila Holdings, Inc. believes it will be damaged by the registration and use of the subject mark of U.S. Trademark Application No. 85696550 / Registration No. 4448717, in connection with the services therein identified, and hereby opposes its registration. The grounds for cancellation are as follows:

- NOTICE OF CANCELLATION - 1

1 4. Registrant of mark QUI PLATINUM in International Class 033 for tequila,
2 Application Serial Number 85696550 / Registration No. 4448717, filed on August 6,
3 2012 on the basis of 1(b) intent to use.

4 5. Plaintiff has filed a Opposition against Applicant's QUI mark in Opposition No.
5 91207397, filed on October 10, 2012. In said Opposition Plaintiff requested that the
6 USPTO put a hold and include the present mark in the Opposition.
7

8 6. Applicant's QUI PLATINUM mark was published for opposition on March 5, 2013.
9 Plaintiff failed to realize that the mark's application would not be put on hold as request
10 was made in Opposition 91207397, filed on October 10, 2012.

11 7. Upon information and belief, Applicant's Applied for mark registered December
12 10, 2013.

13 8. Plaintiff's registered marks, which were the subject of applications filed in 2008
14 have priority over Applicant's QUI PLATINUM mark filed in 2012.

15 9. Applicant's QUI PLATINUM mark is to be used in connection with goods that are
16 identical to the goods for which Plaintiff's Registered Marks are used, tequila, and have
17 same channels of trade to reach a same audience of consumers.
18

19 10. Applicant's QUI PLATINUM mark is essentially QUI as the word PLATINUM is
20 descriptive and refers to clear color of the tequila - Blanco or Plata or Silver or white.
21 Platinum is also considered silver or white in color. See Exhibit 2.

22 11. Applicant's QUI PLATINUM mark so resembles Plaintiff's Registered Marks as to
23 be likely, when used on or in connection with Applicant's listed goods, to cause
24 confusion or to cause mistake or to deceive the consumer as to the source of origin of
25 those goods. In addition , the sound of Applicant's proposed mark QUI and Plaintiff's
26

1 registered mark PaQui are sufficiently similar to cause confusion in that Qui is
2 pronounced "Kee" and PaQui is pronounced "pah KEE" with the emphasis on the KEE
3 syllable. Applicant's mark is sufficiently similar to Plaintiff's Registered Marks as to
4 cause confusion and/or deception as to the source, sponsorship, approval, or affiliation
5 of Applicant's services offered under Applicant's mark.
6

7 12. Actual instances of confusion have occurred between Plaintiff's PAQUI mark and
8 the Applicant's QUI mark.

9 13. Cancellation should be granted under 15 U.S.C. § 1052(d) and 15 U.S. Code §
10 1064 for likelihood of confusion.

11 14. The mark QUI PLATINUM mark is allegedly used for Extra Añejo tequila. This in
12 itself means that the mark is deceptively misdescriptive.

13 15. Under law, tequila can only be sold in specific categories. There are five
14 categories - Blanco, Joven, Reposado, Añejo, and Extra Añejo. A first category of
15 tequila is Blanco or Plata which is commonly referred to as Silver or Platinum tequila.
16 Blanco ("white") or plata ("silver") white spirit, is an unaged and bottled or stored
17 immediately after distillation, or aged less than two months in stainless steel or neutral
18 oak barrels. The fifth category of tequila is ultra-aged tequila (extra añejo), the aging
19 process shall last at least three years in direct contact with the wood of oak or Encino
20 oak (holm or holm oak) containers with a maximum capacity of 600 liters. The terms
21 Ultra-aged may be used for Extra Añejo. See Exhibit 3.
22

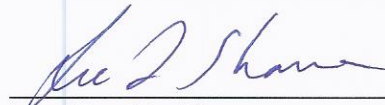
23 16. As Blanco or Plata and Extra Añejo are mutually exclusive classes of tequila, the
24 mark QUI PLATINUM for Extra Añejo tequila is deceptively misdescriptive under the
25
26

1 Trademark Act section 2(e)(1) and Applicant's QUI PLATINUM mark should be
2 cancelled for being deceptively misdescriptive.

3 17. Plaintiff requests that this Cancellation be made part of a previously filed
4 Opposition proceeding number 91207397.

5 WHEREFORE, Plaintiff requests that registration of the mark subject to
6 Application Serial No. 85696550 / Registration No. 4448717 be cancelled and that this
7 Cancellation be sustained in favor of Plaintiff.
8

9
10 Respectfully Submitted this 13th day of February, 2014,

11 

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California Attorney License No. 185444

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plat·i·num (plăt'n-əm)

n.

1. **Symbol Pt** A silver-white metallic element occurring worldwide, usually mixed with other metals such as iridium, osmium, or nickel. It is ductile and malleable, does not oxidize in air, and is used as a catalyst and in electrical components, jewelry, dentistry, and electroplating. Atomic number 78; atomic weight 195.08; melting point 1,772°C; boiling point 3,827°C; specific gravity 21.45; valence 2, 3, 4. See Table at [element](#).
2. A medium to light gray.

[New Latin, from Spanish *platina*, *platinum*; see [platina](#).]

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platinum ('plætɪnəm)

n

1. (Elements & Compounds) a ductile malleable silvery-white metallic element, very resistant to heat and chemicals. It occurs free and in association with other platinum metals, esp in osmiridium: used in jewellery, laboratory apparatus, electrical contacts, dentistry, electroplating, and as a catalyst. Symbol: Pt; atomic no: 78; atomic wt: 195.08; valency: 1-4; relative density: 21.45; melting pt: 1769°C; boiling pt: 3827±100°C
2. (Colours)
 - a. a medium to light grey colour
 - b. (as adjective): *a platinum carpet*.

[C19: New Latin, from *platina*, on the model of other metals with the suffix *-um*]

[Collins English Dictionary – Complete and Unabridged](#) © HarperCollins Publishers 1991, 1994, 1998, 2000, 2003

plat·i·num ('plæt n əm, 'plæt nəm)

n.

1. a heavy, grayish white, highly malleable and ductile metallic chemical element, resistant to most chemicals, practically unoxidizable except in the presence of bases, and fusible only at extremely high temperatures: used for making chemical and scientific apparatus, as a catalyst in the oxidation of ammonia to nitric acid, and in jewelry. *Symbol: Pt; at. wt.: 195.09; at. no.: 78; sp. gr.: 21.5 at 20°C.*
2. a light, metallic gray with very slight bluish tinge when compared with silver.

adj.

3. (of a recording, compact disc, or cassette) having sold a minimum of one million copies.

[1805–15; < New Latin, alter. of earlier *platina* < Sp; see [platina](#)]

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platinum (plăt'n-əm)

Symbol Pt

A soft, ductile, malleable, silver-white metallic element that usually occurs with osmium, iridium, palladium, or nickel. It has a high melting point and does not corrode in air. Platinum is used as a catalyst and in making jewelry, electrical contacts, and dental crowns. Atomic number 78; atomic weight 195.08; melting point 1,772°C; boiling point 3,827°C; specific gravity 21.45; valence 2, 3, 4. See [Periodic Table](#).

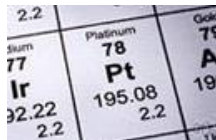
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Thesaurus

Legend: █ Synonyms █ Related

Words █ Antonyms

Noun 1. platinum - a heavy precious metallic element; grey-white and resistant to corroding; occurs in some nickel and copper ores and is also found native in some deposits



2.2	Platinum	Gold
77	78	79
Ir	Pt	Au
222.22	195.08	196.966569
2.2	2.2	

█ [atomic number 78, Pt](#)

█ [noble metal](#) - any metal that is resistant to corrosion or oxidation

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Translations

Select a language: _____

platinum (ˈplætɪnəm) *noun, adjective*

(of) an element, a heavy, valuable grey metal, often used in making jewellery. [a platinum ring](#).

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platinum →

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References in classic literature

On the upper part of this tank is a **platinum** tube provided with a stopcock.

Five Weeks in a Balloon by *Verne, Jules*
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The leather of his harness was completely hidden beneath ornaments of **platinum** thickly set with brilliant diamonds, as were the scabbards of his swords and the ornate holster that held his long, Martian pistol.

The Chessmen of Mars by *Burroughs, Edgar Rice*
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We were greeted with an endless round of applause and showered with ornaments of gold, **platinum**, silver, and precious jewels.

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**OFFICIAL MEXICAN STANDARD NOM-006-SCFI-2012
ALCOHOLIC BEVERAGES-TEQUILA-SPECIFICATIONS**

COURTESY TRANSLATION

MINISTRY OF THE ECONOMY

MEXICAN OFFICIAL STANDARD NOM-006-SCFI-2012, Alcoholic Beverages -Tequila-Specifications.

At the margin a stamp with the National Seal of Mexico, that states: Estados Unidos Mexicanos.- Secretaría de Economía.

MEXICAN OFFICIAL STANDARD NOM-006-SCFI-2012, ALCOHOLIC BEVERAGES – TEQUILA – SPECIFICATIONS

CHRISTIAN TUREGANO ROLDAN, Director General of Standards and President of the National Advisory Committee on Standardization, User Safety, Commercial Information and Trade Practices (CCNNSUICPC), pursuant to Articles 34 Sections II, XIII and XXXI of the Federal Public Administration Law; 39 Section V, 40 Sections I and XII and XV, 46, 47 Section IV of the Federal Weights and Measures and Standardization Law, and 19 Sections I and XIV and XV of the Internal Regulations of the Ministry of the Economy and

CONSIDERING

That it is the Federal Government's responsibility to implement the necessary measures to guarantee that the products marketed within the national territory comply with the mandatory requirements to assure the safety and commercial information in order to protect the consumer.

That on May 24, 2012, the National Advisory Committee on Standardization, User Safety, Commercial Information and Trade Practices, approved the publication of the DRAFT of the Official Mexican Standard PROY-NOM-006-SCFI-2012 *Alcoholic Beverages – Tequila – Specifications*, published in the Official Gazette of Mexico on June 15, 2012 for public consultation.

That the Regulatory Impact Study referred to by Article 45 of the Federal Weights and Measures and Standardization Law, was submitted to the consideration of the Federal Commission of Regulatory Improvement, having issued the final approval report for such Commission on October 22, 2012.

That during a period of 60 calendar days from the date in which the draft of the Official Mexican Standard was published, the Regulatory Impact Study referred to by Article 45 of the Federal Weights and Measures and Standardization Law was open to the general public for consultation, and within this same period, the interested parties submitted their comments regarding the aforementioned draft of the Official Mexican Standard, which were analyzed by the Committee and taken into consideration to modify the draft.

That on September 28, 2012, the National Advisory Committee on Standardization, User Safety, Commercial Information and Trade Practices approved the NOM-006-SCFI-2012, Alcoholic beverages – Tequila – Specifications unanimously.

That the Federal Weights and Measures and Standardization Law establishes that official Mexican standards are used as the appropriate tools for the protection of the consumers' interests; thus, is issued the following: NOM-006-SCFI-2012, Alcoholic beverages – Tequila – Specifications unanimously.

México, D.F., on October 29, 2012.- The General Director of Standards and President of the National Advisory Committee on Standardization, User Safety, Commercial Information and Trade Practices, **Christian Turégano Roldán**.- Signature.

MEXICAN OFFICIAL STANDARD NOM-006-SCFI-2012, Alcoholic Beverages -Tequila- Specifications.

PREFACE

The following companies and entities participated in the creation of the Official Mexican Standard:

- CAMARA NACIONAL DE LA INDUSTRIA TEQUILERA (CNIT)
- CONSEJO REGULADOR DEL TEQUILA A.C. (CRT)
- CONSEJO DE PRODUCTORES DE AGAVE
- CONSEJO DE AGRICULTORES DE AGAVE
- SECRETARIA DE ECONOMIA
Dirección General de Normas (DGN)
- PROCURADURIA FEDERAL DEL CONSUMIDOR (PROFECO)

1) Destilados La Ideal, S.A. de C.V.

2) Dra. Patricia Colunga. GM. Profesora-Investigadora Titular C. Centro de Investigación Científica de Yucatán. Investigadora Nacional SNI 2. Miembro de la Academia Mexicana de Ciencias. Miembro de la Red de Agaváceas (SINAREFI-SAGARPA).

Catarina Illsley G. Grupo de Estudios Ambientales GEA. Kleinhans Fellowship por trabajo con agaves.

Alejandro Calvillo. Director. El Poder del Consumidor AC. Miembro de Consumers International.

David Suro-Piñera. Presidente. Tequila Interchange Project.

*Nota: a los comentarios emitidos en forma conjunta por la Dra. Patricia Colunga, Catarina Illsley G., Alejandro Calvillo y David Suro-Piñera se adjuntaron listas que contienen un total de 372 adherentes a dichos comentarios, mismas que por cuestiones de espacio no es posible reproducir; sin embargo se encuentran disponibles en los expedientes de la Dirección General de Normas de la SE.

3) Dra. María Teresa Pulido Silva.

4) Olmo Uribe Aguirre.

5) Productores de Mezcal Artesanal y Tradicional de Zapotitlán de Vadillo y Tolimán, Jalisco

6) La Madrileña, S.A. de C.V.

7) Antonio Benavides Rosales.

8) Distilled Spirits Council of the United States, Inc.

9) Comité Técnico de Normalización del CRT.

10) Heriberto de León Frausto "Tequila SAUZA, S. de R.L. de C.V."

11) Luis Fernando Vázquez Olivera.

12) Destilerías Sierra Unidas, S.A. de C.V.

13) Destiladora González González, S.A. de C.V.

14) Ana Mendoza.

15) Tequilas del Señor S.A. de C.V.

16) Consejo de Agricultores de Agave Azul Tequilana Weber del Estado de Jalisco, A.C.

17) Monitor Regulatorio.

18) Come Presidents' Forum of the Beverage Alcohol Industry.

19) David Félix Ramírez Lozano.

20) Xiomara Trujillo Gutiérrez, SOS Mascotas y Rescate Ambiental, A.C.

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0 INTRODUCTION

This Official Mexican Standard relates to the Appellation of Origin of “Tequila,” held by the Mexican government pursuant to the Industrial Property Law. The issuance of this NOM is necessary, pursuant to point 2 of the General Declaration of Protection of the Appellation of Origin of “Tequila,” published in the Official Gazette of Mexico on October 13, 1977 (hereinafter, the “Declaration”) and Article 40 Section XV of the Federal Weights and Measures and Standardization Law.

1 PURPOSE

This NOM establishes the characteristics and specifications to be met by those involved in the production chain, industry and trade of Tequila, in accordance with the process defined below.

2 SCOPE OF APPLICATION

This NOM applies to all processes and activities related to the supply of agave, production, bottling, marketing, information and business practices linked to the distilled alcoholic beverage known as Tequila, pursuant to the specifications of this NOM. Said beverage is subject to the process detailed below, using Agave of the species *tequilana weber blue variety*, grown in the federal states and municipalities indicated in the Declaration.

Furthermore, this NOM establishes the technical specifications and legal requirements for the protection of the Appellation of Origin of “Tequila,” in accordance with the current General Declaration of Protection of the Appellation of Origin of “Tequila,” the Law, the Industrial Property Law, the Federal Consumer Protection Law and other related legal provisions.

3 REFERENCES

In order to verify the specifications set forth in this NOM, the Official Mexican Standards, Mexican Standards, specifications, procedures and test methods currently in force, or those replacing them, shall apply. Those are listed as follows:

3.1 Official Mexican Standards

NOM-030-SCFI-1993,	Commercial information of quantity statement on label- Specifications, published in the Official Gazette of Mexico on October 29, 1993.
NOM-106-SCFI-2000,	Design characteristics and conditions for use of the official countersign, published in the Official Gazette of Mexico on February 2, 2001.
NOM-127-SSA1-1994	Environmental Health, Water for use and human consumption. Allowed limits for quality and treatments to which water must be subjected to make it drinkable, published in the Official Gazette of Mexico on January 18, 1996.
NOM-142-SSA1-1995	Goods and services - alcoholic beverages - health specifications. Health and commercial labeling, published in the Official Gazette of Mexico on July 9, 1997.
NOM-251-SSA1-2009	Hygienic practices for processing food, Drinks or Dietary Supplements, published in the Official Gazette of Mexico on March 1, 2010

3.2 Mexican Standards

NMX-V-004-NORMEX-2005	Alcoholic Beverages - Determination of furfural. Test methods, published in the Official Gazette of Mexico on June 23, 2005.
NMX-V-005-NORMEX-2005	Alcoholic Beverages- Determination of esters, aldehydes, methanol and higher alcohols (fuel oils) – Test methods, published in the Official Gazette of Mexico on June 23, 2005.
NMX-V-006-NORMEX-2005	Alcoholic beverages – determination of direct reducing sugars and total sugars - Test methods, published in the Official Gazette of Mexico on June 23, 2005.
NMX-V-013-NORMEX-2005	Alcoholic beverages - Determination of alcohol content (percentage of alcohol by volume at 293 k(20°c)(% alc. vol.) - Test methods, published in the Official Gazette of Mexico on June 23, 2005.
NMX-V-017-NORMEX-1995	Alcoholic beverages - Determination of dry extract and ash - Test methods, published in the Official Gazette of Mexico on June 23, 2005.
NMX-V-049-NORMEX-2004	Alcoholic beverages - Alcoholic beverages containing tequila- Naming, labeling and specifications, published in the Official Gazette of Mexico on May 21, 2004.

4 Definitions

For purposes of this NOM, the following definitions, in alphabetical order (in Spanish) shall apply:

4.1 Mellowing

Procedure to soften the flavor of the Tequila, through the addition of one or more of the following ingredients:

- Caramel coloring
- Natural oak or Encino oak extract (holm or holm oak extract).
- Glycerin
- Sugar-based syrup

4.2 Agave from the *tequilana weber blue variety* species

For purposes of this NOM, the plant from the *Agavaceas* family, with long, fibrous, lanceolate leaves of a bluish color whose useable part in the manufacture of Tequila is the heart or head.

The only species allowed for purposes of this NOM, is the *tequilana weber blue variety*, grown and harvested within the territory specified in the Declaration.

4.3 Good Manufacturing Practices

Set of interrelated quality guidelines and procedures intended to guarantee that the Tequila is produced consistently within these specifications. These guidelines are contained in the NOM-251-SSA1-2009.

4.4 CAE

Certificate of Approval of Tequila Bottlers

4.5 Declaration

The General Declaration of Protection of the Appellation of Origin of “Tequila,” published in the **Official Gazette of Mexico** on October 13, 1977 and its subsequent amendments and additions.

4.6 Agency

Any agency, pursuant to Article 26 of the Federal Public Administration Law.

4.7 Distillation

It's the separation of the components of a liquid mix by partial steaming and recuperating of the steam and its residues; in other words, it is the separation of a mix of substances, where the volatile ones are separated or fractured from the non volatile substances. The alcoholic distillation is based in that the ethylic alcohol, being lighter than water, steams at a lower temperature than the boiling point of water. The steam that rises can be condensed and converted into liquid with a high alcohol content.

4.8 DGN

Directorate General of Standards of the Ministry of the Economy.

4.9 DOT

Appellation of Origin of Tequila.

4.10 Label

Any tag, insignia, inscription, image or other description or graphical representation, whether printed, stamped, engraved, embossed, placed by photogravure, stenciled or adhered to the product container or packaging.

4.11 Bottling

It is the action of pouring or introducing any material or product in the recipients that will contain it with the purpose of conserving it, protecting its physical and chemical stability and marketing.

4.12 Container

Any new container or recipient destined to keep Tequila and to enter in contact with it, conserving its physical, chemical, sensorial and sanitary integrity.

4.13 Approved Bottler

Is the individual or legal entity, different from the Tequila producer, which is approved by the SE to bottle Tequila, according to provisions established in section 6.5.4.2 of this NOM.

4.14 Extraction

The mechanical, physical, chemical, biological procedure or combination thereof that allows for the separation of the sugars or carbohydrates of the agave.

4.15 Fermentation

The transformation of the sugars of vegetable origin into ethylic alcohol and carbon dioxide, with the creation of other compounds that will contribute to the final sensorial characteristics of Tequila.

4.16 Filtration

The process of separating the solid particles present in Tequila, through a filtration agent.

4.17 Formulation

The stage previous to the fermentation, where the musts are prepared to obtain adequate fermentation conditions and, depending on the case, to comply with the 51% in mass of direct reducing sugars obtained from the agave.

4.18 Hydrolysis

The chemical, thermal, enzymatic procedure or combination thereof, that has the purpose of breaking the complex carbohydrates contained in the agave, mainly the inuline, to obtain simple sugars suitable for fermentation.

4.19 IMPI

The Mexican Industrial Property Institute.

4.20 Jima

Separation process of the agave plant from the layer of soil that supports it, through a transversal cut on its base, and the elimination of its leaves by trimming to obtain the "piña" or head, formed by the stem and the bases of its leaves.

4.21 LFMN

The Federal Weights and Measures and Standardization Law published in the Official Gazette of Mexico on July 1, 1992 and its subsequent modifications.

4.22 Minimum and Maximum Limits

The quantity set in this NOM for which no tolerance is allowed.

4.23 Lot or Batch

The quantity of a product bottled during a single period of time to ensure its identification.

4.24 Tequila Aging

The slow transformation that allows the product to acquire additional sensorial characteristics, obtained through physical-chemical processes that take place naturally while the product is resting in oak or Encino oak (holm or holm oak) containers.

4.25 Maquila (Sub contracting)

Any activity concerning the manufacturing process of an authorized producer that is sent to another authorized producer to be completed by him or her.

4.26 Cold Mixing

They consist of adding or mixing any alcoholic beverage different to Tequila during the manufacturing stages of Tequila, including the finished product.

4.27 Musts

Sugary liquid, obtained from the extraction of the hydrolyzed agave and added with other sugars, according to this NOM, ready to be fermented.

4.28 NMX

Mexican Standard.

4.29 NOM

Official Mexican Standard.

4.30 Manufacturing Stages

The stages in the Tequila-making process during which the raw materials undergo chemical, biochemical and physical changes until a specific product is obtained in each stage. Said process includes the following basic stages, among others: harvest or jima, hydrolysis, extraction, formulation, fermentation, distillation, aging, as applicable, filtration and bottling.

4.31 Compliance or Conformity Assessment Agency

The Regulatory Council or individual accredited and approved pursuant to the LFMN to verify compliance with this NOM.

4.32 Authorized Producer

The individual or legal entity authorized by the DGN and the IMPI, in accordance with their respective authority, to engage in the manufacture of Tequila in facilities that must be located within the territory specified in the Declaration.

This authorization is subject to compliance to the provisions in section 10.2 of this NOM and other applicable regulation.

4.33 PROFECO

The Federal Consumer Protection Agency.

4.34 SE

The Ministry of the Economy.

4.35 Primary Display Panel

Area where the appellation of origin and product's brand appear according to NOM-030-SCFI (see chapter 3, References).

4.36 Tequila

The regional alcoholic beverage obtained by distilling musts, prepared directly and originally from extracted material, in the manufacturing facilities of an Authorized Producer, which must be located in the territory specified in the Declaration, derived from the hearts of *tequilana weber blue variety* Agave, previously or subsequently hydrolyzed or cooked, and subjected to alcoholic fermentation with cultivated or uncultivated yeasts, wherein said musts may be enhanced and blended together before fermentation with other sugars up to a proportion no greater than 49% of total reducing sugars expressed in units of mass, pursuant to this Official Mexican Standard, and with the understanding that cold mixing is not permitted. Tequila is a liquid that may have color, when matured, mellowed, or added with a specific color.

Tequila may be enhanced by the addition of sweeteners, coloring, aromatizers and/or flavorings permitted by the Ministry of Health in order to provide or intensify its color, aroma and/or flavor.

Reference to the term “Tequila” in this NOM is understood to apply to the two categories indicated in Chapter 5, except for express references to “100% agave” Tequila.

4.36.1 Silver Tequila (*Blanco*)

Transparent product not necessary colorless, without additives, obtained through distillation, whose commercial alcohol content must be adjusted by dilution with water and the provisions in article 6.1.1.1 in the cases that apply; possibly having an aging process of less than two months in oak or Encino oak containers.

4.36.2 Gold Tequila (*Joven* or *Oro*)

Product resulting of the mix between white Tequila with aged, extra-aged or ultra-aged Tequilas.

Also called Tequila *joven* or gold is the product that results from blending silver Tequila with any of the ingredients listed in section 4.1 in what is known as mellowing.

4.36.3 Aged Tequila (*Reposado*)

A product which may be enhanced by mellowing, subject to an aging process of at least two months in direct contact with the wood of oak or Encino oak (holm or holm oak) containers. Its commercial alcohol content must be adjusted by dilution with water, as applicable.

The result of blending aged Tequila with extra-aged Tequila is considered aged Tequila.

4.36.4 Extra-aged Tequila (*Añejo*)

A product that may be enhanced by mellowing, subject to an aging process of at least one year in direct contact with the wood of oak (holm or holm oak) or Encino oak containers with a maximum capacity of 600 liters. Its commercial alcohol content must be adjusted by dilution with water.

The result of blending extra-aged Tequila with ultra-aged Tequila is considered extra-aged Tequila.

4.36.5 Ultra-aged Tequila (Extra *Añejo*)

A product that may be enhanced by mellowing, subject to an aging process of at least three years, in direct contact with the wood of the oak or Encino oak containers, whose maximum capacity is 600 liters, its commercial alcohol content must be adjusted with dilution water.

5 Classification

5.1 Categories

Tequila is classified in one of the following two categories, based on the percentage of natural Agave sugars used it is production:

5.1.1 “100% agave”

Pursuant to Section 4.34 of this NOM, a product whose fermentation may not be enhanced with sugars other than those obtained from the *tequilana weber* blue variety Agave grown in the territory specified in the Declaration. For the product to be considered “100% agave” Tequila, it must be bottled in the bottling plant controlled by the Authorized Producer, which must be located within the territory specified in the Declaration.

This product must be labeled using one of the following statements: “100% de agave,” “100% puro de agave,” “100% agave,” or “100% puro agave,” to which the word “azul” [“blue”] may be added.

5.1.2 “Tequila”

The product defined in paragraph one of Section 4.34 of this NOM whose musts may be enhanced and blended together prior to fermentation with other sugars in a proportion not to exceed 49% of total reducing sugars expressed in units of mass. This maximum enhancement of up to 49% of total reducing sugars expressed in units of mass may not be done with sugars from any species of Agave.

The 51% of total reducing sugars expressed in units of mass may only be enhanced with *tequilana weber blue variety* Agave grown in the territory specified in the Declaration.

This product may be bottled in plants not belonging to an authorized producer under strict compliance by the bottler of the conditions set forth in Section 6.5.4.2 and other applicable provisions of this NOM.

5.2 Classes

5.2.1 Based on the characteristics acquired in processes subsequent to distillation, Tequila is classified as:

- *Blanco or Plata*
- *Joven or Oro*
- *Reposado*
- *Añejo*
- *Extra Añejo*

Whose definitions are found in sections 4.36.1, 4.36.2, 4.36.3, 4.36.4 and 4.36

5.2.2 For the international market, the classification mentioned in the foregoing paragraph may be substituted by the translation to the applicable language according to the regulation of the country or place of commercialization or by the following:

- "Silver" for *Blanco or Plata*
- "Gold" for *Joven or Oro*
- "Aged" for *Reposado*
- "Extra-aged" for *Añejo*
- *Ultra-aged* for *Extra Añejo*

6 Specifications

6.1 Product Specifications

6.1.1 The product covered under this NOM shall comply with the specifications set forth below:

TABLE 1- PHYSICAL-CHEMICAL SPECIFICATIONS FOR TEQUILA

Parameters	Silver Tequila		Gold Tequila		Aged Tequila		Extra Aged Tequila		Ultra Aged Tequila		Test Method based on: (1)
	MIN	MAX	MIN	MAX	MIN	MAX	MIN	MAX	MIN	MAX	
Alcohol Content at 293 K (20°C) (% Alc. Vol.)	35	55	35	55	35	55	35	55	35	55	NMX-V-013-NORMEX
Dry Extract (g/l)	0	0,30	0	5	0	5	0	5	0	5	NMX-V-017-NORMEX
Values expressed in mg/100 ml of Absolute (Anhydrous) Alcohol											
Higher Alcohols (alcohols with molecular	20	500	20	500	20	500	20	500	20	500	NMX-V-005-NORMEX

weight higher than ethyl alcohol or fusel oil) (E.g. Amyl Alcohol)											
Methanol (2)	30	300	30	300	30	300	30	300	30	300	NMX-V-005-NORMEX
Aldehydes (such as acetaldehyde)	0	40	0	40	0	40	0	40	0	40	NMX-V-005-NORMEX
Esters (such as ethyl acetate)	2	200	2	200	2	250	2	250	2	250	NMX-V-005-NORMEX
Furfural	0	4	0	4	0	4	0	4	0	4	NMX-V-004-NORMEX

(1) For details see Chapter 3.

(2) The minimum parameter may decrease if the Authorized Producer demonstrates he has a viable method to reduce the methanol content to the Conformity Assessment Agency.

(3) The only method allowed in this NOM for determining superior Alcohols is by Gas Chromatography, since the Spectrophotometric method (moist method) does not quantify the n-propanol present in the samples (this is to avoid having a wide difference in the results of superior alcohols due to the method used in the laboratory –chromatographic or moist method).

6.1.1.1 When the tequilas defined in sections 4.34.1, 4.34.2, 4.34.3, 4.34.4, 4.34.5 are added with sweeteners, coloring, aromatizers and/or flavorings permitted by the Ministry of Health in order to provide or intensify their color, aroma and/or flavor, the total reducing sugars shall have a maximum limit of 75 g/L, according to the NMX-V-006-NORMEX and their dry extract shall have a maximum limit of 85 g/L, according to the NMX-V-017-NORMEX (see chapter 3, References). For purposes of this paragraph, compliance with Sub-section 11.1.c) is required.

The use of any of the mellowing additives to which section 4.1 of this NOM refers must not be more than 1% in relation to the total Tequila weight before it is bottled. The producer must keep the corresponding records of the raw material used.

6.1.2 If necessary to obtain the required commercial alcohol content, potable, distilled or demineralized water shall be used for dilution, according to NOM-127-SSA1 (see chapter 3, References).

6.1.3 For purposes of this NOM, the health specifications related to heavy metals and metalloids contained in Official Mexican Standard NOM-142-SSA1 (see Chapter 3 References) shall apply. Official Mexican Standard NOM-117-SSA1 (see Chapter 3 References) shall be considered for such purposes. Said specifications may be verified by the competent authorities and, therefore, its certification, in terms of this NOM is not required.

6.2 Agave Specifications

The Agave used as the raw material for Tequila production shall be of the species *tequilana weber blue variety*, grown and harvested in the territory specified in the Declaration and registered with the registry indicated in point 6.5.1.1 of this NOM.

6.3 Other Sugars

The product covered under this NOM may be enhanced with other sugars in the fermentation process up to a proportion not to exceed 49% of total reducing sugars expressed in units of mass for the Tequila referenced in Section 5.1.2; however, cold mixing is not permitted. This maximum enhancement of up to 49% of total reducing sugars expressed in units of mass may not be done with sugars from any species of Agave. The 51% of total reducing sugars expressed in units of mass may only be enhanced with *tequilana weber blue variety* Agave grown in the territory specified in the Declaration.

6.4 Aging

In the case of aged Tequila (*reposado*), the product shall be aged in direct contact with the wood of oak or Encino oak (holm or hol oak) containers for at least two months.

For extra-aged Tequila (*añejo*), the aging process shall last at least one year in direct contact with the wood of oak or Encino oak (holm or hol oak) containers with a maximum capacity of 600 liters.

For ultra-aged Tequila (extra *añejo*), the aging process shall last at least three years in direct contact with the wood of oak or Encino oak (holm or hol oak) containers with a maximum capacity of 600 liters.

The aging of the Tequila shall be performed by the Authorized Producer within the territory specified in the Declaration.

6.5 Tequila Authenticity Specifications

6.5.1 Agave

The Agave used as the raw material for Tequila production shall meet the requirements set forth below:

6.5.1.1 It shall be duly registered with the Plantation Property Registry established for such purposes by the Conformity Assessment Agency. Registration shall be done within the first year of planting at the latest. The Conformity Assessment Agency must verify the veracity of the information registered, without implying an additional cost to the owner or title holders of the Agave.

The owner or title holder of the *tequilana weber blue variety* Agave must annually update or ratify, during the first 6 months of the calendar year, his/her registration of plantations or agave lots of the *tequilana weber blue variety* specie, stating the condition of the registration information and changes, if any, to their *tequilana weber blue variety* Agave inventory corresponding to the previous year.

This obligation shall be the responsibility of the producers or title holders of *tequilana weber blue variety* Agave grown in the territory specified in the Declaration who sell or plan to sell said agave to Authorized producers.

The Authorized Producers shall be responsible for obtaining written confirmation of registration from the individuals or legal entities from whom they purchase or plan to purchase the *tequilana weber blue variety* Agave grown in the territory specified in the Declaration.

The Plantation Property Registry shall also include the identification of all Agave that has been committed by any legal means for use in the production of Tequila. Registration of this identification with said registry shall be the responsibility of the owner or title holder of the Agave.

6.5.1.2 The *tequilana weber blue variety* Agave must be supervised by the Conformity Assessment Agency to prove compliance of the requisites in sections 6.2 and 6.5.1.1 of the present NOM.

6.5.1.3 The Conformity Assessment Agency must annually verify or ratify due compliance to the requisites set forth in the second paragraph in sub-section 6.5.1.1 above.

6.5.2 Use of Sugars

6.5.2.1 The Tequila producer shall demonstrate, at all times, that the product has not been adulterated in the manufacturing stages of its production. To this end, the Authorized Tequila Producer shall maintain updated records of at least the following documents:

- a) Invoices or documents confirming the purchase of the raw materials (Agave and other sugars).
- b) Documents confirming raw material input and output.
- c) Documents confirming the movement of the finished product.
- d) Inventories of raw materials and finished product, including, specifically, the finished product allocated to aging or bottling.

6.5.2.2. At no time may any product that does not contain Tequila be distilled or produced in the Authorized Producer's Tequila facility.

6.5.2.3 The verification of the provisions of this NOM shall be undertaken by continuous inspections by the Conformity Assessment Agency, independent of any further confirmation by any competent Agency.

6.5.3 Subcontracting in the Manufacturing Stages

Subcontracting of the manufacturing stages in facilities other than those of the Authorized Producer, shall comply with the provisions of Section 10.1 of this NOM, and said provisions shall be included in the applicable subcontracting agreement.

Compliance with the provisions of this NOM is the joint responsibility of the parties executing the subcontracting agreement. It is also their responsibility to notify the Conformity Assessment Agency about the beginning of their operations at least three days before they start.

Subcontractors shall cover, as a minimum, the manufacturing stages of hydrolysis, extraction, formulation, fermentation and distillation. Therefore, the execution of those manufacturing stages in separate ways is excluded.

6.5.4 Bottling

The Tequila bottler shall demonstrate, at all times, that the product has not been adulterated between its bulk delivery and final bottling. For such purposes, bottling activities shall be subject to the following guidelines:

6.5.4.1 When dealing with the product belonging to the category referred to in section 5.1 of this NOM, the product shall be aged and bottled within the territory specified in the Declaration in the bottling plant of the Authorized Producer. In the event that the bottling plant is not located at the producer's facilities, the bulk transport of the product shall be supervised by the Conformity Assessment Agency, pursuant to the current procedures approved by the DGN. The bottling plant is considered to be property of the Authorized Producer when said Authorized Producer maintains complete control over the bottling process.

6.5.4.2 The Tequila defined in Section 5.1.2 of this NOM may be bottled in bottling plants that are not a property of an authorized producer under the following conditions:

- a) The bottler must obtain the CAE from the DGN, pursuant to the procedure registered in the Federal Registry of Procedures and Services, identified with the registry code: "SE-04-017 Certificate of Approval of Tequila Bottlers", or one which substitutes it.

The CAE shall be granted provided that the SE has evidence that the Compliance Assessment Agency is provided with full access to perform onsite inspections of the existence, working activities and operation of the bottling plants.

- b) The bottler who has obtained the CAE from the SE must file quarterly reports to the Conformity Assessment Agency, all the Tequila incoming and outgoing movements from its facilities, its initial and final inventories of the period, as well as any period shrinkage from the period reported. These reports must be broken down by specific brands, volume and batch number in the case of products bottled as Tequila. For products in which Tequila is used as an ingredient, the bottler must file the reports with the exact amount of Tequila added to the product, specifying the brand as well as the final product.

The information shall be filed with the Conformity Assessment Agency electronically within the first fifteen (15) calendar days of the following quarterly periods: First Quarter - January through March, Second Quarter - April through June, Third Quarter - July through September, Fourth Quarter - October through December, in the form to be determined by the Conformity Assessment Agency.

c) Authorized Producers are responsible for:

- (i) applying for the Certificate of Approval for the bottler with the SE.
- (ii) contributing to the submission of the quarterly reports indicated in Sub-section b) above in due time and form.
- (iii) Take the necessary measures with the approved bottler to ensure that the Conformity Assessment Agency has the access necessary to carry out such inspections, in the event of elements warranting an onsite inspection in the opinion of the Conformity Assessment Agency.

In the event that the Conformity Assessment Agency or the competent Agency determines a breach of the obligations set forth in Section 6.5.4.2, it shall not issue the Domestic Transport Certificate or Tequila Export Certificate, as applicable, and the SE shall cancel the respective bottler's CAE.

6.5.4.3 All bulk transport of Tequila shall be supervised by the Conformity Assessment Agency pursuant to the current procedures of the Conformity Assessment Agency approved by the DGN. The bottling process is subject to inspection by lot by the Conformity Assessment Agency.

The bulk transport of Tequila is not permitted outside the territory specified in the Declaration for purposes other than those set forth in Sections 6.5.4.2 and 12 of this Official Mexican Standard.

The bottler who is not an Authorized Producer must not use more than one Tequila supplier per Tequila brand and per Tequila class, unless he obtains approval statement from the Conformity Assessment Agency and it is notified to the DGN.

6.5.4.4 The bottler who is not an Authorized Producer may only filter or dilute the Tequila with potable, distilled or demineralized water to obtain the commercial alcohol content of the Tequila within the parameters permitted under this NOM. Therefore, it may not age or mellow the Tequila.

6.5.4.5 The bottler who is not an Authorized Producer may only bottle the product that has been produced under the supervision of the Conformity Assessment Agency. To this end, it shall confirm that each lot it receives has a certificate of compliance with this NOM.

6.5.4.6 The bottler shall not simultaneously bottle a product other than Tequila in its facilities, unless it has clearly differentiated bottling lines in the opinion of the Conformity Assessment Agency and obtains authorization from said Conformity Assessment Agency, with the due advanced notice prior to the startup date of the simultaneous bottling of any product other than Tequila.

6.5.4.7 The bottler shall keep updated records of at least the following documents:

- a) Sales statements and invoices for Tequila and bottling materials, including labels;
- b) Comparative analytical tables of pre-sale physical-chemical specifications, within the parameters specified in Section 6.1 of this NOM;
- c) Copies of Domestic Transport Certificate and Export Certificates, as applicable, and
- d) Original Certificate of Approval issued by the SE, if applicable.

6.5.4.8 To demonstrate that the Tequila has not been adulterated during the bottling process, the comparisons of the chromatographic areas and peaks made at the bottling plant shall coincide with those obtained at the Authorized Producer's facilities. The previous criteria shall also apply to

guarantee the traceability and authenticity of the product sampled in the market by the competent authority.

6.5.4.9 The Tequila shall be bottled in new sanitary containers, according to the provisions of section 4.11.

The Tequila may be bottled in glass or polyethylene terephthalate (PET) bottles and other containers pursuant to health provisions.

The capacity of each container may not exceed 5 liters and in no case may bottles be used that bear a brand name that is not property of the Authorized Producer or approved bottler pursuant to this NOM.

6.5.4.10 Compliance with the provisions of Section 6.5.4 and in general, with any aspect related to this NOM as applied to bottling, shall be confirmed by batch inspections to be conducted for such purposes by the Conformity Assessment Agency, independent of further confirmation by any competent Agency.

6.6 Presumption of Noncompliance.

Should any competent Authority or the Conformity Assessment Agency detect noncompliance with any provision of this NOM by any party involved in the Tequila production chain, industry or trade, the pursuant measures shall take place: precautionary, pressure, or sanctions that correspond in accordance to applicable law.

The foregoing is without prejudice to the inspection authority of the competent Agencies pursuant to other legal provisions.

6.7 Procedures with Authorities

Any individual or legal entity wishing to participate in the production of Tequila shall apply to the DGN for authorization to produce Tequila, in accordance to the procedure listed in the Federal Registry of Procedures and Services, identified with registry code number "SE-04-018 Authorization to produce Tequila and/or Tequila 100% Agave", or one which substitutes it and to the IMPI for authorization to use the DOT. These documents shall be required for processing the Certificate of Product Compliance with this NOM.

7 Sampling

7.1 General Requirements

The application of the sampling plan described in this NOM, requires Authorized Producers and bottlers to maintain continuous quality control through their own infrastructure or through contracting the services of conformity assessment agencies accredited and approved pursuant to the LFMN, such as certification agencies, testing laboratories and/or verification units.

7.2 Bulk Product

For bulk product contained in tank cars, tanker trucks or tanks, a sample is taken of either homogenized Tequila or Tequila consisting of approximately equal portions extracted from the lower, middle and upper levels of the tank, with the understanding that the minimum volume extracted shall be 3 liters. For product contained in barrels, the sample taken shall consist of approximately equal portions extracted from the number of barrels specified in Appendix A of this NOM, ensuring that the total volume obtained is at least 3 liters.

After homogenization, each sample extracted shall be divided into 3 portions of approximately one liter each, bottled in containers duly identified with labels signed by the interested parties, and sealed to prevent their adulteration. These portions shall be distributed as follows: two to the Compliance Assessment Agency or, in the absence thereof, to the DGN and one to the company visited. Of the two samples held by the Conformity Assessment Agency, one is analyzed and the other is held for use in the event of third party intervention.

7.3 Smaller Containers

7.3.1 For product in smaller containers, each sample shall consist of approximately equal portions taken from the number of containers specified in Appendix B of this Official Mexican Standard, ensuring that the total volume obtained is at least 3 liters.

When the number of sampled containers is insufficient to obtain the minimum 3-liter requirement, as many containers as necessary to complete said volume shall be sampled. The samples shall be processed pursuant to the last paragraph of Section 7.2.

7.3.2 The selection of barrels or smaller containers for sampling must be random.

8 Test Methods and Verification

Verification of compliance with the specifications set forth in this NOM, shall take place as follows:

8.1 Product

The test methods contained in the NMX referred to in Chapter 3 of this NOM shall be applied.

8.2 Aging

The Authorized Producer shall provide the Conformity Assessment Agency with evidence of the existence of containers and shall maintain controls and continuous, numbered records of product placed in and removed from such containers.

The containers in which aging takes place shall be sealed throughout the entire process. The seals shall be placed and removed by the Compliance Assessment Agency.

8.3 Dilution Water

The Compliance Assessment Agency shall confirm the existence of purification, distillation or demineralization equipment in operating condition and the equipment usage log, as well as the use of the potable, distilled or demineralized water. If applicable, it shall verify the existence of purchase or supply invoices or bills for the volumes of potable, distilled or demineralized water used.

8.4 Authenticity of the Tequila

8.4.1 Verification of the *Tequilana Weber Blue variety Agave*

The test methods determined by the Conformity Assessment Agency to verify the species *tequilana weber* blue variety shall be applied using general certification criteria issued pursuant to the LFMN, which must be approved by the SE to identify the Agave tequilana weber blue variety species.

8.5 Continuous Verification

To assess compliance with Tequila authenticity requirements and all processes and activities necessary for such purposes pursuant to this NOM, Authorized Producers and approved bottlers of Tequila shall be subject to a continuous verification procedure in the plant facilities where the product is manufactured or bottled, respectively.

The Conformity Assessment Agency shall develop a procedure that provides, as a minimum, for continuous onsite verification of production or bottling activities, during the entire time such activities take place.

The Ministry of the Economy and the various competent authorities shall periodically verify compliance with this NOM by all parties involved in the Tequila production chain, industry and trade.

Pursuant to the LFMN, the expenses incurred for the verification referred to in this Section shall be borne by the individuals or legal entities subject to such verification.

9 Quality Control

Pursuant to the LFMN, Authorized Producers and bottlers of Tequila shall maintain quality control systems compatible with applicable standards and good manufacturing processes according to the NOM-120-SSA1 (see chapter 3, references). Furthermore, they shall systematically verify compliance

with the specifications contained in this NOM, using sufficient and adequate laboratory equipment, as well as appropriate test methods, maintaining statistical control of production and bottling so as to objectively demonstrate compliance with said specifications.

10 Marketing

10.1 No individual or legal entity may produce, bottle or market any Tequila whatsoever that is not certified by the Conformity Assessment Agency.

10.2 The tequila producer must obtain authorization from the DGN to produce Tequila and/or Tequila 100% in accordance with the processing/procedure listed in the Federal Registry of Procedures and Services, listed with registry code: "SE-04-018 Authorization to produce Tequila and/or Tequila 100% Agave", or one which substitutes it, which shall also be subject to compliance with this NOM and other applicable regulation.

The bulk transfer of Tequila, may only be undertaken by those individuals or legal entities who are Authorized Producers pursuant to this NOM in the understanding that the sale, bottling, commercialization or distribution of bulk tequila shall not be done through vending machines, without detriment to the regulations established by the Competent Authorities.

The country and buyer indicated on the Export Certificate issued for such purposes by the Conformity Assessment Agency shall match the destination of the exported Tequila.

The Export Certificate shall be issued in the number of copies necessary for filing with the competent Agencies and the authorities of other countries where the Tequila is sent, and shall always accompany the corresponding shipment.

10.3 The bulk transfer and receipt of Tequila shall be supervised by the Conformity Assessment Agency, which shall keep specific records of such transactions.

10.4 All Tequila shall be identified with the Official countersign pursuant to the current NOM-106-SCFI (see Chapter 3 References) and the registration of its respective Authorized Producer, which is assigned by the DGN or the Conformity Assessment Agency.

10.5 The Authorized Producer and approved bottler of Tequila shall keep records of the number of liters produced and/or bottled daily, specifying the brands under which the product is being marketed, and shall make such records available to the Conformity Assessment Agency.

10.5.1 In addition to the obligation of obtaining the CAE set forth in Sub-section 6.5.4.2. a) of this NOM, approved bottlers shall be registered with the "Bottler Registry" which shall identify Tequila bottlers based on the legal registration granted by the country where the bottling plant is located.

Said Registry shall be developed, administered, controlled and supervised by the Conformity Assessment Agency and said Registry's bottler registration number shall be included on each Domestic Transport Certificate or Export Certificate issued by the Conformity Assessment Agency, as applicable, for each lot to be certified. The identification number shall be the one which the SE acknowledges, for which the Conformity Assessment Agency shall inform the SE every semester of the identification numbers assigned.

10.5.2 Authorized Producers are jointly responsible with approved bottlers of Tequila whose facilities are located outside the territory specified in the Declaration, for providing the Conformity Assessment Agency with the information required under Section 6.5.4.2.

In the event that the Authorized Producer fails to contribute to providing the information referred to in the foregoing paragraph, the Conformity Assessment Agency shall not issue Domestic Transport Certificate or Export Certificates, as applicable, for those lots to be sent to the approved bottler who fails to provide such information, and shall issue a ruling of noncompliance for the corresponding legal action.

10.5.3. Production facilities may not be used by more than one Authorized Producer, nor may they be used simultaneously, alternatively or in lieu of the Authorized Producer currently registered with the Conformity Assessment Agency. In the understanding that it may not store any product (bottled or bulk) aside from the tequila it produces in the facilities of the Tequila producing company, unless it obtains authorization from the Conformity Assessment Agency and the DGN is notified.

10.6 The Conformity Assessment Agency shall draft a bimonthly report confirming those products that have been certified as meeting the specifications of this Draft Official Mexican Standard, identifying them by brand and Authorized Producer.

Furthermore, the Conformity Assessment Agency shall report those products for which, based on the inspections performed, it has detected breaches of this NOM.

Said reports shall be sent to the DGN so that it may apply the applicable sanctions pursuant to the LFMN.

Individuals or legal entities authorized to produce Tequila and use the Appellation of Origin of Tequila shall comply with the provisions of this NOM, the LFMN, the Industrial Property Law, the Federal Consumer Protection Law and other applicable provisions.

10.7 When a certain brand is intended to be used for Tequila, and the owner or beneficiary is the Authorized Producer, this brand must be registered.

In the event of attempted use of a brand or any other distinctive sign for Tequila according to applicable legislation, standardization or regulation in the place of commercialization, other than those to which Authorized Producer is owner or beneficiary, or when the Tequila is bottled by someone other than the Authorized Producer, the joint responsibility agreement must be filed with the IMPI for registration pursuant to this Official Mexican Standard and with the Industrial Property Law.

10.8 The approved bottler shall comply with the labeling requirements set forth in Chapter 11 of this NOM without prejudice to compliance with the requirements imposed by the laws of the country to which the product is exported, if applicable.

11 Commercial Information

11.1 Labeling

Each container shall bear a legible label containing the following information in the Spanish language, which shall be truth and shall not mislead the consumer with respect to the nature and characteristics of the Tequila:

- a) The word "Tequila";
- b) Category and class of the product, pursuant to Chapter 5 of this NOM;
- c) For the tequilas referred to in section 6.1.1.1 of this NOM, the name of the flavors, added aromas or one which prevails in the product and the name of the color shall also be stated, where applicable. The name of the color shall appear and may be included in any part of the label or bottle.
- d) Net content expressed in liters or milliliters, pursuant to NOM-030-SCFI (see Chapter 3 References);
- e) Alcohol content expressed as percentage of alcohol by volume at 20°C, abbreviated as "% Alc. Vol.";
- f) Name or corporate name of the Authorized Producer or facility where the Tequila is produced and, if applicable, the approved bottler;
- g) Domicile of the Authorized Producer or facility where the Tequila is produced and, if applicable, the approved bottler;
- h) Name of the registered trademark or any other distinctive sign according to the applicable legislation, standardization or regulation in the place of commercialization, according to the joint responsibility agreement registered with the IMPI.
- i) The statement *HECHO EN MÉXICO* (MADE IN MEXICO), *PRODUCTO DE MÉXICO* (PRODUCT OF MEXICO), *ELABORADO EN MÉXICO* (PRODUCED IN MEXICO), or other similar statements;

- j) Official countersign pursuant to the NOM-106-SCFI (see chapter 3, References); along with the Authorized Producer registration number mentioned in section 10.4 of this NOM.
- k) Lot or Batch: each container shall engraved or stamped with the coded identification of the lot to which it belongs. The lot identification provided by the Authorized Producer or approved bottler may not be altered or hidden in any manner whatsoever;
- l) The warning statements set forth in health legislation; and
- m) Any information required by other legal provisions applicable to alcoholic beverages.

11.2 Presentation of the Information

11.2.1 Domestic Market Requirements

As minimum, the information specified in items a), b), c), d), e) and h) of Section 11.1 shall appear on the primary display panel. The rest of the information referred to in said Section as well as the name of the color specified in section c) shall appear and may be included on any other part of the label or container.

11.2.2 For Export Products or Products Bottled Abroad

As a minimum, the information specified in items a), b), c) and h) of Section 11.1 shall appear on the primary display panel. The information specified in items i), j) and k) of Section 11.1 shall appear and may be included on any other part of the label or container. The information specified in items b) (solely in reference to the class), c) and i) of Section 11.1 may be translated into another language.

11.2.3 The commercial information shall be free of text, images or other descriptions that mislead or confuse consumers due to their inaccuracy, such as “100% natural,” “100% Mexican,” “100% natural product,” “100% aged” or other similar statements.

When the authorized products have an approval, certificate or other document issued by individuals authorized and approved by the Act, compliance with this NOM will be acknowledged.

Notwithstanding the foregoing, pursuant to the LFMN, when the data or information contained on the labels, containers or packaging of the products is inaccurate, the DGN may order corrective modifications to such data or information, granting the Authorized Producer or approved bottler the term strictly necessary to do so, with the understanding that during said term, those products that the Authorized Producer maintains in inventory or has in the distribution chain or point of sale, may continue to be sold, without limitation to impose the applicable sanction that applies.

In terms of the previous paragraph, it shall be understood that the data or information contained in the labels, containers or packages of the products are inaccurate whenever they include the commercial information required by this NOM in an imprecise or erroneous manner, without expressing data or information that may mislead consumers with respect to the properties of the products they buy.

12 Alcoholic Beverages Containing Tequila, Naming, Labeling and Specifications

12.1 The production, bottling and marketing of alcoholic beverages containing Tequila as an ingredient shall comply with NMX-V-49-2004 NORMEX, Alcoholic Beverages. Alcoholic Beverages Containing Tequila. Naming, Labeling and Specifications (see Chapter 3 References).

In the case of the products mentioned in this section, with a brand whose owner is not the Authorized Producer, there must be compliance with the joint responsibility agreement registered with the IMPI.

12.2 The sanitary specifications relative to heavy metals and metalloids listed in NOM-142-SSA1 (see chapter 3, References), are applicable to the effects of NMX-V-049-NORMEX, for which NMX-V-050-NORMEX-2010 must be taken into consideration (see chapter 3, References).

Said specifications are subject to verification by the Competent Authorities and, therefore, their certification in terms of this NOM is not obligatory.

13 Compliance Assessment

The assessment of compliance with this NOM shall be undertaken by the Competent Agencies or by individuals accredited, and if applicable, approved by the SE: (Certification Agencies, Verification Units and Testing or Calibration Laboratories), pursuant to the provisions of the Federal Weights and Measures and Standardization Law and its Regulation.

The foregoing, without limiting the verification and surveillance rights of the competent authorities.

Compliance or conformity assessment at the request of an interested party may be obtained from the DGN, only in the absence of individuals accredited, and if applicable, approved by the Ministry of the Economy.

Pursuant to the Law, the expenses of verifications arising from the assessment of compliance with this NOM, whether ordinary or extraordinary, continuous or additional, shall be borne by the individuals or legal entities subject thereto.

13.1 Technical Compliance Report

To issue a report of compliance with this NOM, the unit of verification accredited and approved in accordance with the Federal Weights and Measures and Standardization Act, must undertake the visual validation and verification to assess compliance pursuant to the producer's facilities. The verification will include the batch production process, from the arrival of the *tequilana weber* blue variety Agave until the finished product.

Said report shall indicate that the following was validated, among other applicable provisions:

- a) The location of the manufacture plant, within the territory specified in the Declaration of the Appellation of Origin "Tequila".
- b) The statement that the water used in the production process is drinkable.
- c) Verification that the supply of *tequilana weber* blue variety Agave necessary to produce Tequila, harvested within the territory of the DOT, issued by the Certifying agency accredited and approved in accordance with the Federal Weights and Measures and Standardization Act, or, if applicable, with the agave purchase contracts.

13.2 Certificate of Compliance

To issue a certificate of compliance with this NOM, the certifying agency accredited and approved in accordance with the Federal Weights and Measures and Standardization Act, must ensure that the product adjusts to this NOM.

Said certificate shall indicate that, among other applicable legal provisions, the following was validated:

- a) Technical report issued by the unit of verification accredited and approved in accordance with the Federal Weights and Measures and Standardization Act.
- b) Authorization to produce Tequila and/or Tequila 100%, issued by the DGN of the SE pursuant to the procedure registered in the Federal Registry of Procedures and Services identified with the registry code: "SE-04-018 Authorization to produce Tequila and/or Tequila 100% Agave", or one which substitutes it.
- c) Producer Register Number that comes jointly with the NOM Official Countersign issued by the Certifying Agency.
- d) Authorization to use the DOT issued by the IMPI.

According to the provisions of the Federal Weights and Measures and Standardization Act, the expenses that result from the verifications derived from the assessment activities of compliance with this NOM, shall be covered by the individuals or legal entities assessed.

13.3 Report of compliance of commercial information

To issue the report of compliance with this NOM with respect to the commercial information, the unit of verification accredited and approved in accordance with the Federal Weights and Measures and Standardization Act, must undertake the visual validation of the label and verification to assess compliance correspondent to sections 11.1 and 11.2 of this NOM.

14 Enforcement

The surveillance and enforcement of this NOM is competence of the Ministry of Economy and the Federal Consumer Protection Agency, according to its respective attributions.

15 Normative Appendixes

NORMATIVE APPENDIX A

BARREL SAMPLING	
Number of barrels with Tequila of the same category and class	Number of barrels due for sampling
Up to 50	- 2
Between 51 and 500	- 3
Between 501 and 35,000	- 5

APPENDIX B

SMALL CONTAINERS SAMPLING	
Number of bottles of Tequila of the same category and class	Number of bottles due for sampling
In the export cases, if the volume of the lot is 60 liters or less and does not exceed a maximum of 5 boxes, and these correspond to products certified according to this NOM, no export certificate is required, as long as these transactions do not happen twice in a period of 3 months and to the same client.	
Up to 150	- 3
Between 151 and 1,200	- 5
Between 1,201 and 25,000	- 8
More than 25,000	13

16 BIBLIOGRAPHY

16.1 NOM-006-SCFI-1994, Alcoholic Beverages-Tequila-Specifications.

16.2 The General Declaration of Protection of the Appellation of Origin of Tequila published in the **Official Gazette of Mexico** on October 13, 1977 and amended and published in the **Official Gazette of Mexico** on November 3, 1999 and June 26, 2000.

16.3 Industrial Property Law, published in the **Official Gazette of Mexico** on August 2, 1994 and amended and published in the **Official Gazette of Mexico** on December 26, 1997 and May 17, 1999.

16.4 Federal Weights and Measures and Standardization Act published in the **Official Gazette of Mexico** on July 1, 1992 and amended and published in the **Official Gazette of Mexico** on December 24, 1996 and May 20, 1997.

16.5 NOM-002-SCFI-1993, Pre-packed products - Net content, tolerances and verification methods, published in the **Official Gazette of Mexico** on October 13, 1993.

16.6 NOM-008-SCFI-2002, General System of Units of Measure, published in the **Official Gazette of Mexico** on November 27, 2002.

16.7 Agreement between the United States Trade Representative and the SE in Mexico on the Trade of Tequila (MOU) signed on December 16, 2005.

17. CONCORDANCE WITH INTERNATIONAL STANDARDS

This standard has no concordance with international standards, there being no applicable international references at the time of its drafting.

TRANSITIONAL PROVISIONS

ONE.- This NOM shall enter into effect 60 natural days after its publication in the Official Gazette of Mexico with exception of the provision relating to labeling, which will enter into effect 180 natural days after its publication in the Official Gazette of Mexico.

TWO.- Once in effect, this NOM will cancel the NOM-006-SCFI-2005 "Alcoholic Beverages. Tequila-Specifications", published in the Official Gazette of Mexico on January 6, 2006.

THREE.- Those Producers who received authorization to produce Tequila and/or Tequila 100% Agave, and/or Certificate of Approval of Tequila Bottlers (CAE), may request their renewal for purposes of NOM-006-SCFI-2012, as of the publication of the NOM and its effective date, by presenting a written application, signed by the legal representative of the Producing Company, which includes the identification number of the Official letter issued for these concepts and stating under oath that the original compliance conditions under which the Ministry issued the CAE and/or Authorization have not changed. The issue of the updates shall be take place in the order they are received and will be available in a maximum period of 15 working days, entering into effect the same date as the NOM-006-SCFI-2012

FOUR.- The present NOM, once in effect, will render without effect any other administrative act in general such as memos, guidelines, criteria, methodologies, instructions, directives, rules, manuals or any act of such nature, as well as any administrative resolution or official letter that contravene the present NOM.

Those Producers that have administrative resolutions or official letters that contravene this NOM, must present a plan to the DGN that, in the future, will allow the regularization of the specific situation stated in the corresponding resolution.



CERTIFICATE OF SERVICE

This is to certify, in accordance with 37 CFR 2.111 of the Trademark Rules of Practice, that I have this day served the foregoing CANCELLATION on the Applicant, by causing a true and correct copy thereof via email based on stipulation from a previously filed Opposition No. 91207397, addressed to the attorney of record for the Applicant/Registrant as follows:

Karen K. Won

Cooley LLP

1114 Avenue of the Americas

New York, NY 10036

via the following email addresses: kwon@cooley.com

and trademarks@cooley.com, on

This 13th day of February, 2014



Lee Fredric Sharra